

**STATE OF VERMONT  
BOARD OF MEDICAL PRACTICE**

In Re:

DAVID S. CHASE,  
Respondent

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)  
Docket No. MPC 15-0203, et al.

**DECISION ON RESPONDENT'S MOTION TO STAY HEARING  
PENDING CONCLUSION OF FEDERAL CRIMINAL CASE**

Respondent filed a motion, dated 9/13/04, to stay the pending hearing before the Medical Board. The State filed a Memorandum in Opposition dated 9/16/04. The Board Hearing Panel met via teleconference on 9/16/04 to deliberate on the motion. The Board included James D. Cahill, M.D., Patricia A. King, M.D., Ph.D., Sharon L. Nicol, Public Member; Katherine M. Reedy, Public Member; Toby Sadkin, M.D.; and John B. Webber, Esq., Public Member. Phillip J. Cykon, Esq. served as Presiding Officer for the Board.

Through his motion, Respondent requests the Board to stay the disciplinary hearing pending in this matter, because he believes that a criminal indictment is soon to be handed down by a Federal Grand Jury. Respondent asserts that the criminal indictment will be based upon the same facts that are the basis for the Specification of Charges pending before the Board. For this reason, Respondent maintains that requiring him to defend the criminal charges and the Board's administrative charges at the same time will jeopardize several of his constitutional rights, including his Fifth Amendment privilege against self-incrimination, his Sixth Amendment right to a speedy trial, and his right to due process. In addition, he contends that discovery will be expanded beyond what is permitted under federal rules; the parties, the witnesses, and the Board will be greatly inconvenienced; and the public will still be protected through the continuation of Respondent's cessation of practice.

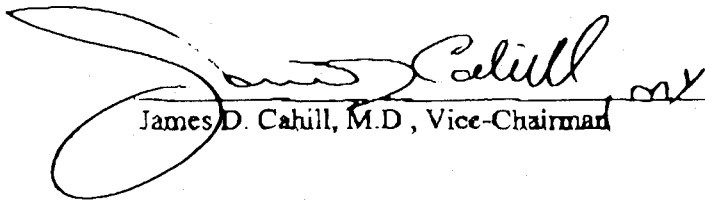
The Attorney General's Office acknowledges the factors that Respondent relies upon, however, opposes the motion since there is currently no federal criminal indictment and there is no way of knowing if or when one will be forthcoming.

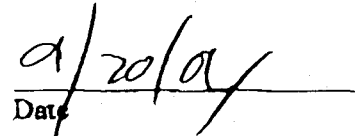
The Board considered all of the arguments set forth by the parties in their written memoranda filed with the Board. Foremost in the Board's deliberation is its duty to protect the public and to ensure that all physicians practicing in Vermont do so in a competent and ethical manner. The charges of alleged unprofessional conduct pending against Respondent are very serious, and the Board believes that it is in the public's and the Respondent's interests to have these allegation resolved in a fair and expedient manner. However, the Cessation of Practice Order that is in effect and will remain in effect against Respondent will protect the public while he defends himself against the federal criminal charges. Therefore, balancing all of the factors presented by the parties, the Board issues the following ORDER:

1. Respondent's motion to stay the Board hearing is unanimously APPROVED and GRANTED, and will remain in effect until the conclusion of any criminal proceedings filed against Respondent. In the event that criminal charges are not filed against Respondent within a reasonable time, the Board, in its sole discretion, shall terminate the stay and schedule the disciplinary matter for hearing at the earliest possible time;
2. The Cessation of Practice Order that was previously issued against Respondent shall remain in effect for the duration of any federal criminal proceedings and for the Board's administrative proceeding;
3. The stay of the hearing covers all pending matters before the Board, that is, there will be no further action by either party in the Board case until further order of the Board;
4. The Board will continue to monitor the progress of any federal criminal proceedings against Respondent and will schedule periodic status conferences so that the parties may update the Board as to the progress of any federal criminal proceedings against Respondent.

SO ORDERED.

FOR THE BOARD OF MEDICAL PRACTICE:

  
James D. Cahill, M.D., Vice-Chairman

  
Date